IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.K.MOHANAN

WEDNESDAY, THE 10TH OCTOBER 2007 / 18TH ASWINA 1929

Crl.MC.No. 259 of 2005()

AGAINST THE ORDER DATED 25/11/2004 IN CRMP. 1733 /2004 IN CRA.354/2004 of ADDL.SESSIONS COURT, PATHANAMTHITTA
CC.109/2000 of JUDL.MAGISTRATE OF FIRST CLASS COURT, THIRUVALLA

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PETITIONER/ACCUSED:

K.V.MARY, AGED 45 YEARS,
W/O.C.J.EDWARD, CHERUKODU HOUSE,
EDATHUA MURI, DO. VILLAGE,
KUTTANADU TALUK, ALAPPUZHA DIST.

BY ADV. SRI.R.SANTHOSH BABU

RESPONDENTS/RESPONDENTS/COMPLAINANT & STATE:
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1. C.G.REMANAN, S/O.C.K.GOVINDAN,
ANDHIL CHIRAYIL, ANAPRAMBIL NORTH P.O.,
THALAVADY VILLAGE, KUTTANADU, ALAPPUZHA.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

R2 BY PUBLIC PROSECUTOR SMT.M.R.PUSHPALATHA
SRI.C.G.REMANAN

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 10/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.K.MOHANAN,J

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Crl.M.C.No.259 of 2005

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Dated this the 10th day of October, 2007

ORDER

Though the matter was taken for consideration during the last hearing date there was no representation and hence adjourned to 5.10.2007 and on that date also there was no representation. But inspite of dismissing, the matter was adjourned to today as a last chance. Today also when the case is taken there is no representation. Therefore, I am inclined to dispose this Crl.M.C. The above Crl.M.C is filed by the petitioner with a prayer to extend the time by two months for complying with the directions, in Annexure-I order of the Sessions court, Pathanamthitta, towards executing the bail bond.

2. Petitioner is the accused in C.C.No.109/2000 for an offence under Section 138 of the Negotiable Instruments Act. The allegation is that the petitioner/accused issued a cheque in favour of the first respondent for discharging a debt of Rs.2,41,560/- and the said cheque was presented but returned unpaid for the reason of insufficiency of funds in the account of the petitioner/accused. After trial, the trial court came into a

conclusion that the accused has committed offence punishable under Section 138 of the Negotiable Instruments Act and accordingly convicted him and sentenced to undergo simple imprisonment for a period of four months and to pay a sum of Rs.2,50,000/- to the first respondent as compensation and in default of payment of compensation the petitioner is directed to further undergo simple imprisonment for one month. Challenging the above conviction and sentence, the petitioner has preferred Crl.Appeal No.354/2004 before the Sessions court, Pathanamthitta. On 25.11.2004 when the above appeal taken for consideration, the Sessions Judge as per Annexure-I order suspended the sentence on condition to deposit Rs.40,000/- and on executing a bond for Rs.1,00,000/- within 30 days before the Judicial First Class Magistrate Court, Thiruvalla from the date of the order. Aggrieved by Annexure-I order, the petitioner approached this Honourable Court with a prayer to extend the time fixed by Annexure-I for a further period of two months.

3. I have heard the learned Public Prosecutor, who submitted that the Crl.M.C has became infructuous. There is no representation on the side of the petitioner/accused or from the first respondent. On a perusal of the proceedings of this Court it appears that notice in the above Crl.M.C was ordered on 19.1.2005 and by the order dated 19.1.2005 this Court has ordered notice in Crl.M.A.No.807/2005 and interim order of stay of conviction imposed and also the order of the Sessions Judge in Crl.M.P.No.1733/2004 in Crl.Appeal No.354/2004 by which the petitioner was directed to deposit of Rs.40,000/- within one month from the date of passing of the order. By the very same order, this Court has clarified that it is open to learned Sessions Judge to hear and dispose of the Crl.Appeal itself and there is no stay for hearing of the Crl.Appeal.

4. It is pertinent to note that the only prayer in the Crl.M.C is to extend time by two months for complying with the directions in Annexure-I for depositing the amount as directed. The above order was stayed by this Court by order dated 19.1.2005 and thereafter the matter is pending in this Court.

Considering the interim order passed by this Court, especially in the light of the fact that the only prayer in the Crl.M.C. is for the extension of time by two months for complying with the direction in Annexure-I, I am of the view that this Crl.M.C virtually became infructuous and there is no meaning in keeping the same.

In the light of the above discussion, I am of the view that the Crl.M.C became infructuous and it deserves no further consideration. Accordingly the Crl.M.C stands dismissed.

V.K.MOHANAN, JUDGE

dvs